

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 3. AGRICULTURE

#### CHAPTER 4. DEPARTMENT OF AGRICULTURE PLANT SERVICES DIVISION

#### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R3-4-403                           | Amend                           |
| R3-4-406                           | Amend                           |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 3-107(A)(1) and 3-232(A)(2)  
Implementing statute: A.R.S. § 3-232
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 2112, May 10, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Sherry D. Blatner, Rules Specialist  
Address: Arizona Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007  
Telephone: (602) 542-0962  
Fax: (602) 542-5420  
E-mail: sherry.blatner@agric.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
This rulemaking updates material incorporated by reference, deletes language that merely paraphrases incorporated material, and conforms language to the current usage standards of the Office of the Secretary of State. The lists of prohibited and restricted noxious weed seeds are modified. The amendment was a commitment made by the Division to the Council in its last five-year review.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable

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**8. The preliminary summary of the economic, small business, and consumer impact:**

A. *The Arizona Department of Agriculture.*

The Department will incur modest expenses related to training staff and educating the regulated community on the amendments.

B. *Political Subdivision.*

Other than the Department, no political subdivision is affected by this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

The horticultural and agricultural interests are protected by publication of a list of prohibited and restricted noxious weed seed lists. Seed dealers will benefit from the Department sampling seed by means of the most current federal and nationally recognized standards.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Sherry D. Blatner, Rules Specialist

Address: Arizona Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420

E-mail: sherry.blatner@agric.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Comments may be written or presented orally. A hearing is scheduled for:

Date: February 7, 2003

Time: 11:00 a.m. to 12:00 p.m.

Location: Department of Agriculture  
1688 W. Adams, Room 206  
Phoenix, AZ 85007

The record will close at 4:00 p.m., February 7, 2003. Written comments may be mailed or delivered by 4:00 p.m., February 7, 2003, to the person named in item #4.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

7 C.F.R. 201.39 through 201.65, R3-4-406(A)

*Rules for Testing Seeds*, published by the Association of Official Seed Analysts, effective October 1, 2001, R3-4-406(A)

**13. The full text of the rules follows:**

**TITLE 3. AGRICULTURE**

**CHAPTER 4. DEPARTMENT OF AGRICULTURE**

**PLANT SERVICES DIVISION**

**ARTICLE 4. SEEDS**

Section

R3-4-403. Noxious Weed Seeds

R3-4-406. Sampling and Analyzing Seed

**ARTICLE 4. SEEDS**

**R3-4-403. Noxious Weed Seeds**

A. The following noxious weed seeds are prohibited in planting seed:

1. *Acroptilon repens* (L.) DC. – (~~Russian knapweed~~ Knapweed).
2. *Aegilops cylindrica* Host. – (~~Jointed goatgrass~~ Goatgrass).
3. ~~*Agropyron Elytrigia repens* – Quackgrass~~
4. *Alhagi pseudalhagi* (Bieb.) Desv. *maurorum* Medik. – (Camelthorn).
5. *Cardaria draba* ~~var. repens~~, (L.) Desv., *C. pubescens* – (C.A. Mey) Jarmolenko (~~Hoary cress~~ Cress),  
*Carduus acanthoides* L. (Plumeless Thistle),  
*Carduus nutans* L. (Musk Thistle),  
*Centaurea biebersteinii* DC. (Spotted Knapweed),  
*Centaurea diffusa* Lam. (Diffuse Knapweed),  
*Centaurea melitensis* L. (Malta Starthistle).
6. *Centaurea solstitialis* L. – (~~Yellow starthistle~~ Starthistle, (~~St. Barnaby's thistle~~ Thistle),  
*Chondrilla juncea* L. (Rush Skeletonweed).
7. *Cirsium arvense* (L.) Scop. – (~~Canada thistle~~ Thistle),  
*Cirsium vulgare* (Savi) Tenore (Bull Thistle).
8. *Convolvulus arvensis* L. – (~~Field bindweed~~ Bindweed).
9. *Cyperus rotundus* L., *C. esculentus* L. – (Nutgrass).
10. *Drymaria arenarioides* ~~H.B.K.~~ – Humb. & Bonpl. Ex J.A. Schultes (Alfombrilla, (~~Lightningweed~~),  
*Elymus repens* (L.) Gould – (Quackgrass).
11. *Euphorbia esula* L. – (~~Leafy spurge~~ Spurge),  
*Halogeton glomeratus* (M. Bieb.) C. A. Mey (Halogeton).
12. *Helianthus ciliaris* DC. – (~~Texas blueweed~~ Blueweed),  
*Hirschfeldia incana* (L.) Lagreze-Fossat (Shortpod Mustard).
13. *Ipomoea* spp. – (~~Morning glory. All Non-native species except of Morningglory, Ipomoea carnea, Mexican bush morning glory, and Ipomoea aborescens, morning glory tree~~  
*Lepidium latifolium* L. (Perennial Pepperweed),  
*Linaria genistifolia* (L.) Mill. ssp. *dalmatica* Maire & Petitmengin (Dalmation Toadflax),  
*Onopordum acanthium* L. (Scotch Thistle),  
*Orobanche* L. spp. (non-native species of Broomrape),  
*Pennisetum ciliare* (L.) Link (Buffelgrass),  
*Pennisetum clandestinum* Hochst. ex Chiov (Kikuyugrass),  
*Pennisetum setaceum* (Forsk.) Chiov. (Fountaingrass),  
*Salvia aethiopsis* L. (Mediterranean Sage).
14. *Solanum elaeagnifolium* Cav., *S. carolinense* L. – (Horsenettle),  
*Solanum viarum* Dunal (Tropical Soda Apple).
15. *Sonchus arvensis* L. – (~~Perennial sowthistle~~ Sowthistle).
16. *Sorghum Moench* species spp., perennial (such as Johnson grass, Sorghum alnum, and perennial sweet sudangrass (Perennial non-native sorghums), and  
*Striga* Lour. spp. (Witchweed).

B. The following noxious weed seeds are restricted for planting seed. The list shows the highest number of each restricted noxious weed seed permitted per pound of agricultural, vegetable, or ornamental plant seed.

<i>Avena barbata</i> Pott ex Link ( <u>Slender Oat</u> )		5
1. <i>Avena fatua</i> L. – ( <del>Wild oat</del> <u>Oat</u> ).....		5
2. <i>Brassica</i> L. spp. – ( <u>Wild mustard</u> ).....		30
3. <i>Cenchrus pauciflorus spinifex</i> Cav. – ( <u>Sandbur</u> ).....		10
4. <i>Cuscuta</i> L. spp. – ( <u>Dodder</u> ).....		10
<i>Eruca vesicaria</i> (L.) Cav. ssp. <i>sativa</i> (P. Mill) Thellung ( <u>Rocket Salad</u> )		30
<i>Malvella leprosa</i> (Ortega) Krapav. ( <u>Alkali Mallow</u> )		30
<i>Medicago polymorpha</i> L., <i>M. minima</i> (L.) Bartal. ( <u>Burclover</u> )		30
<i>Medicago lupulina</i> L. ( <u>Black Medic</u> )		30
<i>Nassella trichotoma</i> (Nees.) Hack. ( <u>Serrated Tussock</u> ),		30
<i>Portulaca oleracea</i> L. ( <u>Common Purslane</u> )		30
5. <i>Rumex crispus</i> L. – ( <u>Curly dock</u> ).....		30
6. <i>Salsola kali</i> L., <i>S. tragus</i> L. <del>var. tenuifolia</del> – ( <u>Russian thistle</u> ).....		30
7. <i>Sida hederacea</i> – ( <u>Alkali mallow</u> ).....		30
<i>Sinapsis arvensis</i> L. ( <u>Wild Mustard</u> )		30

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8. *Tribulus terrestris* L. – (Puncturevine)..... 10

- C. The sale of agricultural, vegetable, or ornamental planting seed containing prohibited noxious weed seed is prohibited.
- D. The sale of agricultural planting seed containing a single type of restricted noxious weed seed in excess of the limitations set forth in subsection (B) or in combination in excess of 50 per pound is prohibited.

**R3-4-406. Sampling and Analyzing Seed**

- A. The methods of taking, handling, analyzing, and testing samples of seed and the tolerances and methods of determination are ~~set forth~~ prescribed in the Federal Seed Act Regulations, 7 CFR ~~201.44~~ 201.39 through ~~201.66~~ 201.65, amended January ~~13, 1995~~ 1, 2002, and in the *Rules for Testing Seeds*, ~~Volume 16, Number 3~~, published by the Association of Official Seed Analysts, effective October 1, ~~1993~~ 2001. This material is incorporated by reference, ~~and~~ is on file with the Department and the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter. CFR may be ordered from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954 and the Rules for Testing Seeds may be ordered from the AOSA Management Office, PMB 411, 1763 E. University Blvd., Suite A, Las Cruces, NM, 88001. If there is a conflict between the two documents, the requirements in CFR will prevail.
- B. The dealer offering the seed for sale shall ~~bear the expense~~ pay the cost of original germination and purity tests on each lot of seed offered for sale, ~~as well as~~ and any subsequent germination tests ~~test~~ required by A.R.S. § 3-237. The Department shall ~~bear the expense~~ pay the cost of testing seed samples drawn by a seed inspector from lots bearing valid labels.
- ~~C. General sampling procedures:~~
- ~~1. All parts of a lot or quantity of seed shall be accessible for sampling.~~
  - ~~2. Equal portions shall be taken from evenly distributed parts of the quantity of seed to be sampled.~~
  - ~~3. A probe or trier shall be used to sample free-flowing seed in bags or bulk. The probe or trier shall be long enough to sample all portions of a bag containing free-flowing seed.~~
  - ~~4. Nonfree-flowing seed which is difficult to sample with a probe or trier shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.~~
  - ~~5. Each portion of seed shall be examined as it is sampled. If there appears to be lack of uniformity of seed in the sampled portion, additional samples shall be taken to determine if there is a lack of uniformity.~~
- ~~D. Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk in at least 7 uniformly distributed parts of the quantity being sampled. At least as many trierfuls or handfuls shall be taken as the minimum which would be required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings.~~
- ~~E. Sampling seed packaged in bags:~~
- ~~1. Each bag shall be sampled in a lot of 6 bags or less. A total of at least 5 trierfuls shall be taken.~~
  - ~~2. Five bags plus at least 10% of the number of bags in the lot shall be sampled for lots of more than 6 bags. Regardless of the lot size, no more than 30 bags shall be sampled.~~
  - ~~3. Samples shall be drawn from unopened bags, unless the identity of the seed has been preserved.~~
  - ~~4. If seed required to be sampled is packaged in small containers which make it impractical to use the procedures set forth in subsections (E)(1) and (2), a portion of 1 unopened container or 1 or more entire unopened containers may be taken to supply the minimum size sample as set forth in subsection (F).~~
- ~~F. Sample size:~~
- ~~1. The minimum weights of seed samples required to be submitted for analysis test or examination shall be as follows:~~
    - ~~a. Two ounces (57 grams) of grass seed not otherwise mentioned, white or alsike clover, or seeds of similar or smaller size;~~
    - ~~b. Five ounces (142 grams) of red or crimson clover, alfalfa, lespedezas, rye grasses, bromegrass, millet, flax, rape, or seeds of similar size;~~
    - ~~c. One pound (454 grams) of Sudangrass, proso millet, hemp, or seeds of similar size;~~
    - ~~d. Two pounds (907 grams) of cereals, sorghum, vetch, or seeds of similar or larger size;~~
    - ~~e. Two quarts (2.2 liters) of screenings;~~
    - ~~f. Coated seed for a purity analysis shall consist of at least 7,500 seed units. Coated seed for noxious weed seed examination shall consist of at least 30,000 seed units. Coated seed for germination test only shall consist of at least 1,000 seed units.~~
  - ~~2. A sample consisting of a minimum of 400 seeds is required for germination tests of vegetable seeds packaged in containers other than packets. Weights required for purity analysis of such vegetable seeds are set forth in 7 CFR 201.46 and in the Rules for Testing Seeds which are both incorporated by reference in subsection (A).~~

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**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY  
DEVELOPMENTAL DISABILITIES**

**PREAMBLE**

- 1. Sections Affected**

<u>Rulemaking Action</u>
R6-6-1901
R6-6-1902
R6-6-1903
R6-6-1904
R6-6-1905
R6-6-1906
R6-6-1907
R6-6-1908
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1954(A)(3) and 41-1954(A)(1)(h)

Implementing statute: A.R.S. Title 41, Chapter 23
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 2239, May 24, 2002

Notice of Recodification: 9 A.A.R. 36, January 3, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Beth Broeker
Address:	Department of Economic Security P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
	or
	Department of Economic Security 1789 W. Jefferson, Site Code 837A Phoenix, AZ 85007
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
E-mail:	bbroeker@mail.de.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The Division of Developmental Disabilities purchases community services to meet the needs of individuals with developmental disabilities through a Request for Proposals and Contracting process as defined in the Arizona Procurement Code. These rules have been developed to document the process to determine if there is a local provider that has capacity, within their current contract, to meet the needs of an individual with disabilities, and to define the process for selecting a provider for contract expansion when no local contractor has contract capacity available. The intent of the rules is to provide a fair and equitable process within the Arizona Procurement Code structure to identify providers that can respond to unmet needs of individuals with disabilities.

The rules define a three-step process that will provide an objective selection procedure when there is an unmet need for services. Step 1 requires the Division to assess the availability of local contractors to meet the unmet need within the capacity of their contract with the Division. Step 2 requires the Division, when there is no local contractor who can meet the needs within their current contract capacity, to notify all local contractors of the opportunity to be considered for a contract expansion to meet the unmet need. Step 3 requires the Division, when there is no local contract

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able to expand services to meet the unmet need, to notify all existing (statewide) contractors of the opportunity to be considered for contract expansion to meet the unmet need.

In each step of the process, the criteria for decision making has been defined to ensure a fair and objective review of the options among all potential contractors. Additionally, inherent in the Division philosophy and procedures is the right of individual consumer and their family or representative to exercise choice among available options of providers of services. The rules define the role of the individual or their family/representative in making the selection of qualified providers of developmental disability services.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

Economic impact – There is no economic impact anticipated as a result of these rules. The Division currently purchases services to meet unmet needs and will be modifying internal procedures to reflect this process. Implementation of the rules will replace existing procedures and does not add an additional process for the Division or for the providers of services.

Small Business impact – As a result of defining rules and procedure to ensure a fair and equitable process for selection of providers of services, small businesses providing developmental disability services could benefit from the rule by consistently being notified of expansion opportunities. The rules will not negatively impact small businesses.

Consumer impact – Based on the definition of the role of consumers in selecting providers, the consumers will individually benefit by being able to express their choice and ultimately receive services from a provider they believe will best meet their needs. Additionally, through the specific process of notifying multiple providers of the opportunity to be considered for expansion, consumers will have available to them more provider options from which to choose.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Beth Broeker

Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005

or

Department of Economic Security  
1789 W. Jefferson, Site Code 837A  
Phoenix, AZ 85007

Telephone: (602) 542-6555

Fax: (602) 542-6000

E-mail: bbroeker@mail.de.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

The Department has not scheduled an oral proceeding on these proposed rules. An individual may comment on these rules or request an oral proceeding by contacting the person listed in item #4.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

Not applicable

**13. The full text of the rules follows:**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY  
DEVELOPMENTAL DISABILITIES**

**ARTICLE 19. ~~RECODIFIED~~ SERVICE EXPANSION FOR CONTRACTS AWARDED UNDER THE  
ARIZONA PROCUREMENT CODE**

Section

R6-6-1901.	<del>Recodified</del> Definitions
R6-6-1902.	<del>Recodified</del> Applicability
R6-6-1903.	<del>Recodified</del> Expansion of Services
R6-6-1904.	<del>Recodified</del> Local Contractors
R6-6-1905.	<del>Recodified</del> Notice of Service Expansion – Local Contractors
R6-6-1906.	<del>Recodified</del> Notice of Service Expansion – Existing Contractors
R6-6-1907.	<del>Recodified</del> Notice of Service Expansion – New Contractors
R6-6-1908.	<del>Recodified</del> Choice

**ARTICLE 19. ~~RECODIFIED~~ SERVICE EXPANSION FOR CONTRACTS AWARDED UNDER THE  
ARIZONA PROCUREMENT CODE**

**R6-6-1901. ~~Recodified~~ Definitions**

1. “Adult developmental home” has the meaning in A.R.S. § 36-551(2).
2. “Capacity” means the ability of the Division to provide services for consumers, under its existing contracts with service providers.
3. “Child developmental home” has the meaning in A.R.S. § 36-551(11).
4. “Consumer” means an individual authorized to receive services from the Division.
5. “Consumer or family choice” means a consumer’s or a consumer’s legal representative’s expressed preference for a contracted provider of services.
6. “Expansion” means an increase in the capacity of contractors to provide services included in the contractor’s existing contract with the Division.
7. “Department” means the Arizona Department of Economic Security.
8. “Division” means the Division of Developmental Disabilities of the Department of Economic Security.
9. “Expansion” means an increase in contracted capacity to provide services for consumers with unmet needs.
10. “Existing contractor” means any service provider that has a contract with the Division for the service being requested.
11. “Individual support plan” or “ISP” means a written statement of a consumer’s needs and how the Department will address those needs including habilitation goals and objectives and determinations as to which services, if any, the consumer may receive. The ISP incorporates and replaces the Individual Program Plan, the placement evaluation, and the individualized service program plan and for the purposes of these rules incorporates the Individual Family Service Plan as defined in Section 809.1 of the Division of Developmental Disabilities Policies and Procedures Manual.
12. “Individually designed living arrangement” means a consumer’s home or apartment, supported with services designed to meet the unique needs of the consumer.
13. “List serv” means an electronic method of sending information to a predefined directory of intended recipients.
14. “Local contractor” means an existing contractor with a contract to provide a needed service and who, based on the service area defined by the contract, is accessible to the consumer.
15. “Member-directed services” means services obtained for and managed by the consumer or the consumer’s legal representative.
16. “Notice of service expansion” means a request from the Division to local and existing contractors, as appropriate, identifying the need for services for a specific consumer.
17. “Responding contractor” means a contractor who has submitted a response to a notice of service expansion.
18. “Serious” means the following incidents:
  - a. An event that poses a significant and immediate threat to the wellbeing of a consumer or an employee of a contractor;
  - b. Death, significant personal injury, or a suicide attempt;
  - c. Theft, loss, or property damage in excess of \$1,000 for a single occurrence;
  - d. An event required to be reported to law enforcement officials;
  - e. A consumer who is missing for more than five hours;

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- f. Possession or use of an illegal substance by a consumer receiving services, or by an employee of a contractor.
- 19. "Serious in scope or severity" means a higher than usual frequency or pattern of events, or one or more events that are significant.
- 20. "Unlicensed home-based services" means services that are not licensed by the Department or by the Department of Health Services and includes the following services: attendant care, home health aide, home health nurse, hospice care, housekeeping, hourly habilitation, non-emergency transportation, occupational therapy, personal care, physical therapy, respiratory therapy, respite services, speech therapy, and hearing therapy.
- 21. "Unmet need" means there is no contractor identified to provide a service that has been defined in the consumer's ISP.

**R6-6-1902. ~~Revised~~ Applicability**

- A.** This Article applies to services purchased by the Division under the authority of the Arizona Procurement Code, A.R.S. Title 41, Chapter 23, unless otherwise exempted in subsection (B) below.
  - 1. When there is a consumer with an unmet need, the Division shall determine and document whether a local contractor:
    - a. Has the capacity within the contractor's current contract to meet the consumer's needs as defined in the ISP; or
    - b. Wishes to expand the contractor's capacity to meet the consumer's need; and
    - c. Can expand the contractor's capacity in the time-frame required.
  - 2. When the Division determines that no currently available contractor can meet the unmet need in the time-frame required, the Division shall determine whether an existing contractor can expand the contractor's capacity to meet the consumer's need within the time-frame required.
- B.** This Article does not apply to member-directed services, unlicensed home-based services, individually designed living arrangements, adult developmental homes, or child developmental homes.

**R6-6-1903. ~~Revised~~ Expansion of Services**

- A.** In determining whether to expand services, the Division shall consider the following:
  - 1. The extent of the unmet need, which may include consideration of the number of consumers with the same or similar unmet needs; and
  - 2. The urgency of the unmet need based on consideration of health, safety, and quality of life issues for the consumer.
- B.** The Division shall not expand services if:
  - 1. The Division cannot identify an existing contractor who can meet the unmet need;
  - 2. An expansion is not economically reasonable.

**R6-6-1904. ~~Revised~~ Local Contractors**

- A.** The Division shall determine whether any local contractor can meet the needs of the affected consumer under the terms and conditions of the contractor's current contract.
- B.** The Division shall make this determination based upon:
  - 1. The needs of the consumer as articulated in the consumer's ISP; and
  - 2. The appropriateness of the service delivery being proposed to meet the consumer's needs.
- C.** The Division shall document the factors resulting in a determination that a local contractor cannot meet the need of the affected consumer under the terms and conditions of the contractor's current contract.

**R6-6-1905. ~~Revised~~ Notice of Service Expansion – Local Contractors**

- A.** If the Division determines that there is no local contractor to meet the needs of the consumer under the capacity of the contractor's current contract, the Division shall give all local contractors an opportunity to express interest and be considered for service expansion.
- B.** The Division shall notify local contractors of opportunities to expand services by one of the following methods:
  - 1. Mail,
  - 2. Fax, or
  - 3. E-mail.
- C.** The notice of service expansion shall include:
  - 1. Specific information about the service need, such as consumer characteristics, expected program content and design, and location.
  - 2. The name and contact information of the Division contact person who can provide additional information.
  - 3. The factors the Division shall consider to select the contractor, including:
    - a. The ability of the contractor to meet the expected time-frame for initiating services;
    - b. Conformance to the requirements of the notice of service expansion;
    - c. The occurrence of verified serious incidents or abuse or neglect episodes substantiated by Adult Protective Services, Child Protective Services, or any law enforcement investigation;
    - d. Licensing or contract compliance problems that are serious in scope or severity;
    - e. Rate as defined in the current contract and amendments to the current contract; and



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- f. Full-time-equivalent staff configuration as defined in the current contract and amendments to the current contract.
  - 4. Any specific contract documentation required.
  - 5. Designation of the weighting factors to be used in conducting the evaluation and selection, and
  - 6. A due date indicating when responses must be received, to whom they should be sent, whether facsimile or e-mail responses will be accepted, and specific routing instructions.
- D.** The Division shall review all responses to the notice of service expansion that are received by the due date and, if necessary, contact responding contractors to discuss or clarify information submitted.
- E.** The Division may require responding contractors to meet with a consumer or the consumer's legal representative one or more times.
- F.** The Division shall make a selection based on equal weighting of the following criteria, unless otherwise specified in the notice:
  - 1. Experience and expertise.
  - 2. Scope, and
  - 3. Price.
- G.** The Division shall take into consideration the preferences of the consumer and the consumer's legal representative.
- H.** Within 10 calendar days after the final selection being made, the Division shall notify all responding contractors by mail of the selection decision and the process to appeal under the contract claims provisions of the Arizona Procurement Code, A.R.S. Title 41, Chapter 23.
- I.** If the Division cannot identify a local contractor who meets the criteria set out in the Notice of Service Expansion, the Division shall:
  - 1. Reissue the notice of service expansion to local contractors.
  - 2. Send a notice of service expansion to existing contractors, or
  - 3. Cancel the service expansion.
- J.** If only one local contractor responds to the Notice of Service Expansion, the Division may reject the response and
  - 1. Reissue the Notice of Service Expansion to local contractors pursuant to the steps outlined in subsections (A) through (C).
  - 2. Issue a notice of service expansion to existing contractors as defined in R6-6-1906; or
  - 3. Cancel the service expansion.

**R6-6-1906. ~~Revised~~ Notice of Service Expansion – Existing Contractors**

- A.** If the Division determines that there is no local contractor to meet the need of the consumer, the Division shall use the following process to give all existing contractors an opportunity to express interest and be considered for contract expansion.
- B.** The Division shall notify all existing contractors of the opportunity to expand services by one of the following methods:
  - 1. Mail.
  - 2. Fax, or
  - 3. E-mail.
- C.** The notice of service expansion shall include:
  - 1. Specific information about the service need, such as consumer characteristics, expected program content and design, and location.
  - 2. The name and contact information of the Division contact person who can provide additional information.
  - 3. The factors the Division shall consider to select the contractor, including:
    - a. The ability of the contractor to meet the expected time-frame for initiating services;
    - b. Conformance to the requirements of the notice of service expansion;
    - c. The level of participation offered to a consumer and a consumer's legal representatives in establishing the policy and practice of a program;
    - d. Program methodology as defined in the current contract, and amendments to the current contract and its responsiveness to the consumer's ISP;
    - e. Organizational experience as defined in the current contract and amendments to the current contract;
    - f. Staff competencies as defined in the current contract and amendments to the current contract and staff's ability to meet the needs defined in the consumer's ISP;
    - g. The occurrence of verified serious incidents or abuse or neglect episodes substantiated by Adult Protective Services, Child Protective Services, or any law enforcement investigation;
    - h. Licensing or contract compliance problems that are serious in scope or severity;
    - i. Rate as defined in the current contract and amendments to the current contract; and
    - j. Full-time-equivalent staff configuration as defined in the current contract and amendments to the current contract;
  - 4. Designation of the weighting factors to be used in conducting the evaluation and selection;
  - 5. Any specific contract documentation required; and

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6. A due date indicating when responses must be received, to whom they should be sent, whether facsimile or e-mail responses will be accepted, and specific routing instructions.
- D.** The Division shall review all responses to the notice of service expansion that are received by the due date and may, if necessary, contact responding contractors to discuss or clarify information submitted.
- E.** The Division may require responding contractors to meet with a consumer or the consumer's legal representative one or more times.
- F.** The Division shall make a selection based on equal weighting of the following criteria, unless otherwise specified in the notice:
1. Experience and expertise.
  2. Scope, and
  3. Price.
- G.** Within 10 calendar days after the final selection being made, the Division shall notify all responding contractors by mail of the selection decision and the process to appeal under the contract claim provisions of the Arizona Procurement Code, A.R.S. Title 41, Chapter 23.
- H.** If the Division cannot identify an existing contractor who meets the criteria set out in the Notice of Expansion, the Division shall reissue the notice of service expansion to all existing contractors or cancel the service expansion.
- I.** If only one existing contractor responds to the notice of service expansion, the Division may reject the response, and:
1. Reissue the notice of service expansion to existing contractors pursuant to the steps outlined in subsections (A) through (C); or
  2. Cancel the notice of service expansion.

**R6-6-1907.      ~~Revised~~ Notice of Service Expansion – New Contractors**

If the Division determines that existing contractors are unable to meet the needs of the service expansion, the Division may solicit the service in accordance with A.R.S. Title 41, Chapter 23 including as appropriate, issuing a request for proposals or seeking approval for an emergency procurement or a sole source determination.

**R6-6-1908.      ~~Revised~~ Choice**

- A.** In support of a consumer-responsive service delivery system, a consumer or the consumer's legal representative may express and document an interest in receiving services from a specific contractor through the ISP.
- B.** At the annual review of the ISP, the consumer or the consumer's legal representative may express a preference for another currently available contractor, without explanation. If reasonable and feasible, the Division shall accommodate this request.
- C.** If the consumer or the consumer's legal representative expresses a preference to receive services from another currently available contractor between annual reviews of the ISP, the consumer or the consumer's legal representative shall state in writing, for incorporation into ISP notes, the rationale for changing contractors and whether the current contractor had any opportunity to correct the problem. If the problem and failure to correct is verified and the change is reasonable and feasible, the Division shall accommodate the requested change.

## **NOTICE OF PROPOSED RULEMAKING**

### **TITLE 12. NATURAL RESOURCES**

#### **CHAPTER 4. GAME AND FISH COMMISSION**

##### **PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R12-4-504                          | Amend                           |
| R12-4-507                          | Amend                           |
| R12-4-509                          | Amend                           |
| R12-4-527                          | New Section                     |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statutes: A.R.S. §§ 5-311, 5-321.01(D), 5-324, 5-397, 5-397.01, 5-397.02, and 5-397.03
- Implementing statutes: A.R.S. §§ 5-321(C), 5-324(E)(8), 5-397, 5-397.01, and 5-397.02

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**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Not applicable

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mark E. Naugle, Rule & Risk Manager

Address: Arizona Game and Fish Department  
2221 W. Greenway DORR  
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289

Fax: (602) 789-3677

E-mail: mnaugle@gf.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed rulemaking for R12-4-504 and R12-4-509 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rules consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rules. Specific amendments are as follows:

**R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration**

The objective of the rule is prescribed by A.R.S. § 5-321.01, which states, "The Commission shall establish a system of watercraft registration on a monthly basis to distribute the work of registering watercraft as uniformly as practicable throughout the twelve months of the calendar year." The proposed rulemaking makes the following amendments to R12-4-504:

- Amends the rule to delete the last sentence of subsection (B). This sentence states the minimum and maximum renewal period for watercraft registration. This requirement is duplicative of state statute, and it regulates the activities of the Department. Therefore, the requirement should be contained in Department policy rather than rule.
- Amends the rule to make the rule language consistent with the current Administrative Procedure Act requirements for rulemaking language and style.

**R12-4-507. ~~Application for Registration of Abandoned Watercraft~~ Transfer of Ownership of an Abandoned or Unreleased Watercraft**

The objective of the proposed rulemaking is to prescribe procedures to allow for the transfer of ownership of a watercraft that has been abandoned or for which there is no legal release of interest from the registered owner. This rule also protects the interest of the legally registered owner by preventing the registration of a stolen watercraft to another person. The proposed rulemaking makes the following amendments to R12-4-507:

- The proposed rulemaking makes an administrative change to revise the title to "Transfer of Ownership of an Abandoned or Unreleased Watercraft." This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- The proposed rulemaking makes an administrative change to subsection (A)(2) to renumber "Release of Interest" to (A)(3). This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- The proposed rulemaking makes an administrative change to subsection (A) to define "Unreleased watercraft" to mean there is no release of interest from the registered owner of the watercraft. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- The proposed rulemaking amends subsection (E)(1) to establish standards for notifying the public of the Department's intent to transfer ownership of an abandoned or unreleased watercraft as required by A.R.S. § 5-397.01(C).
- The proposed rulemaking deletes subsection (E)(2), because it will no longer be necessary. The Department will assume public notification responsibilities.

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- The proposed rulemaking makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedure Act requirements for rulemaking language and style. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.

**R12-4-509. Watercraft Agents**

The objective of the proposed rulemaking is to provide a service to the public by prescribing procedures for the registration of new boats by watercraft agents, and to reduce Department workload while protecting collected registration revenues. The proposed rulemaking makes the following amendments to R12-4-509:

- Deletes the reference in subsection (H) to R12-4-608 and replaces it with a reference to A.R.S. Title 41, Chapter 6, Article 10.
- Amends the rule to make the rule language consistent with the current Administrative Procedure Act requirements for rulemaking language and style.

**R12-4-527. ~~Reserved~~ Transfer of Ownership of a Towed Watercraft**

The objective of the proposed rulemaking is to permanently establish and implement recent changes in the Arizona Revised Statutes created by Senate Bill 1250, Chapter 314, watercraft; towing companies. The new rule will require towing companies to report towed watercraft to the Department if they wish to initiate a transfer of ownership only after an attempt has been made to contact the registered owner or lien holder of the watercraft. The proposed rule includes the following provisions:

- The proposed rule will implement statutory changes made by Senate Bill 1250, Chapter 314, watercraft; towing companies. This rule will establish a process to transfer ownership of an abandoned towed watercraft. The proposed rule defines the term “towed watercraft” and requires towing companies to present towed watercraft to the Department for inspection should there be no discernible hull identification number. The rule also requires towing companies to provide evidence of compliance with notification requirements to the watercraft’s registered owner as prescribed in A.R.S. § 5-397.
- The proposed rule will prescribe the forms required by the new A.R.S. § 5-397(B)(1) to report towed unreleased watercraft to the Department to initiate a transfer of ownership; the notice of intent to transfer ownership required by A.R.S. § 5-397.01(B) to be mailed to the owner, lienholder or any other party interested in the watercraft; an application for transfer of ownership under A.R.S. § 5-397.02(B); and all other forms that towing companies are required to provide to the Department.
- The proposed rule also establishes a \$25 fee for transfer of registration to be paid by the towing company making the request.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration**

**R12-4-509. Watercraft Agents**

The proposed rulemaking, which involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5, will benefit the general public, private persons, and consumers by providing updated rules that are more readable and more easily understood. No additional costs are anticipated for the general public, private persons, or consumers who are directly or indirectly affected by the proposed rulemaking.

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There will be no additional costs and no reduction in revenues to small or large businesses resulting from these rule amendments, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the proposed rulemaking.

The Department anticipates that the benefits from the proposed rulemaking will outweigh the costs to the Department, other agencies, political subdivisions, the general public, private persons, consumers, and any small or large businesses directly affected by the implementation and enforcement of the proposed rulemaking.

**R12-4-507. ~~Application for Registration of Abandoned Watercraft~~ Transfer of Ownership of an Abandoned or Unreleased Watercraft**

Except for those costs directly associated with the rulemaking itself, the proposed rulemaking will result in no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies.

Information about the proposed rule changes will be disseminated to Department personnel, the public, and other agencies as a part of the normal process of updating the information the Department annually publishes. Departmental enforcement related to the rulemaking will be integrated into existing enforcement responsibilities.

No other agencies or political subdivisions of the state are directly affected by the implementation and enforcement of the proposed rulemaking, and there are no small businesses subject to the proposed rulemaking.

The Department has determined that the overall benefits of the proposed rulemaking outweigh any cost.

**R12-4-527. ~~Reserved~~ Transfer of Ownership of a Towed Watercraft**

The proposed rulemaking will affect the Department, customers that register watercraft with the Department, and towing companies located in the state of Arizona.

The proposal to establish a process for transfer of ownership of a towed watercraft will benefit towing companies by revising the current procedure to make it more like the transfer of ownership of motor vehicles. In addition, it allows towing companies to remove watercraft from their property that have not been reclaimed by the registered owner by registering and then selling or disposing of the watercraft. The proposed rule also establishes a \$25 fee for an application for transfer of ownership of watercraft. The Department will use this fee to meet some of the cost of notifying the registered owner and later publishing a notice of towed watercraft in a publication of general interest, as required by A.R.S. § 5-397.01. The Department anticipates this will not have any effect on revenues or payroll expenditures of employers, because towing companies will be able to recover any towing storage losses by selling the towed watercraft.

The proposed rulemaking will benefit the public by requiring towing companies to give proof of notice to the Department as prescribed in A.R.S. § 5-397. The proposed rulemaking will not incur any additional costs to the public.

The proposed rulemaking will result in no added cost to the public or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The proposed rulemaking will have no impact on private or public employment. The Department has determined that the benefits of the proposed rulemaking outweigh any costs.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name:	Madelynn Fenske, Watercraft Administration
Address:	2221 W. Greenway Phoenix, AZ 85023
Telephone:	(602) 789-3403
Fax:	(602) 789-3729
E-mail:	mfenske@gf.state.az.us

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**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Arizona Game and Fish Commission will hold a public hearing and may take action to amend the rules on:

Date: Saturday, March 22, 2003

Time: To be announced. The Commission Meeting Agenda will be available to the public on February 28, 2003. Copies of the Commission Meeting Agenda may be obtained by contacting the following person:

Mark Naugle, Rules and Risk Management  
Arizona Game and Fish Department DORR  
2221 W. Greenway  
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289

Fax: (602) 789-3677

Location: Best Western Inn Suites  
6201 N. Oracle  
Tucson, AZ

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 2221 W. Greenway, Phoenix, AZ 85023, (602) 789-3290. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

The Arizona Game and Fish Department (AGFD) prohibits discrimination on the basis of race, color, sex, national origin, age, or disability in its programs and activities. If anyone believes that they have been discriminated against in any of the AGFD's programs or activities, including its employment practices, the individual may file a complaint alleging discrimination directly with the AGFD Deputy Director, 2221 W. Greenway, Phoenix, AZ 85023, (602) 789-3290, or the U.S. Fish and Wildlife Service, 4040 N. Fairfax Dr., Ste. 130, Arlington, VA 22203.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by references and their location in the rules:**

Not applicable

**13. The full text of the rules as follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 5. BOATING AND WATER SPORTS**

Section

R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration

R12-4-507. ~~Application for Registration of Abandoned Watercraft~~ Transfer of Ownership of an Abandoned or Unre-  
leased Watercraft

R12-4-509. Watercraft Agents

R12-4-527. ~~Reserved~~ Transfer of Ownership of a Towed Watercraft

**ARTICLE 5. BOATING AND WATER SPORTS**

**R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration**

**A.** All new watercraft registrations ~~shall~~ expire 12 months after ~~issue~~ they are issued.

**B.** Upon renewal of resident or non-resident pleasure use, ~~and or an~~ Indian or soldier's tax-exempt use, ~~registrations shall~~  
~~expire the registration expires~~ on the last day of the month indicated by the last two numeric digits of the watercraft num-  
ber, as shown in the following table: ~~The first renewal period shall be no less than 7 months and no longer than 18~~  
~~months.~~

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*Last two numeric digits of* Expiration  
*watercraft number* month

00	12	24	36	48	60	72	84	96	December
01	13	25	37	49	61	73	85	97	January
02	14	26	38	50	62	74	86	98	February
03	15	27	39	51	63	75	87	99	March
04	16	28	40	52	64	76	88		April
05	17	29	41	53	65	77	89		May
06	18	30	42	54	66	78	90		June
07	19	31	43	55	67	79	91		July
08	20	32	44	56	68	80	92		August
09	21	33	45	57	69	81	93		September
10	22	34	46	58	70	82	94		October
11	23	35	47	59	71	83	95		November

- C. Upon renewal of registrations issued to dealers or manufacturers pursuant to under A.R.S. § 5-322(G), or for governmental use, the registration shall expire expires on October 31.
- D. Upon renewal of registrations issued to liveries or for other commercial use, the registration shall expire expires on November 30.
- E. ~~The~~ The Department or its agent shall collect the entire registration fee and license tax ~~shall be collected~~ for a late registration renewal, plus and a penalty fee of \$5, except as exempted by A.R.S. § 5-321(H), or unless the expiration date ~~fell falls~~ on a Saturday, Sunday, or state holiday, and the registration is renewed before the close of business on the next working day. The Department or its agent shall not collect the penalty fee shall not be collected for a ~~renewals~~ renewal mailed ~~prior to before~~ the expiration date, as evidenced by the postmark.

**R12-4-507. Application for Registration of Abandoned Watercraft Transfer of Ownership of an Abandoned or Unreleased Watercraft**

- A. For the purpose of this Section the following definitions apply:
1. "Abandoned watercraft" means a watercraft that ~~has been~~ is deserted on a highway, a public street, or on public or private property or waters. A watercraft left under a written repair or storage order is not an abandoned watercraft.
  2. "Unreleased watercraft" means a watercraft for which there is no release of interest from the registered owner.
  3. "Release of interest" means a statement giving up, surrendering, or abandoning unconditionally any claim or right of ownership or use in a watercraft.
- B. Unless an abandoned or unreleased watercraft is reported stolen the last registered owner is presumed to be responsible for abandonment of the watercraft.
- C. An applicant seeking registration transfer of ownership of an abandoned or unreleased watercraft shall submit the following information, if available, on a form obtained from the Department:
1. Hull identification number, unless exempted by R12-4-505;
  2. Registration number;
  3. Decal number;
  4. State of registration;
  5. Year of registration;
  6. Name, address, and daytime telephone number of the person who found the watercraft;
  7. Description ~~If the watercraft is abandoned, the description~~ or address of the location where the watercraft was found;
  8. ~~Whether there is any known written agreement for storage or repair;~~
  - 9-8. Condition of the watercraft: whether wrecked, stripped, or intact; and
  - 10-9. State in which the watercraft will be used.
- D. The Department shall attempt to determine the name and address of the registered owner and, if successful, shall send written notice of the attempt to register the watercraft by the applicant to the registered owner by certified mail, return receipt requested.
1. After ~~a period of~~ 30 calendar days from the date the Department mails the notice, if service is successful, or upon receipt of a response from the registered owner, the Department shall advise the applicant in writing according to the following:
    - a. If the registered owner provides a written release of interest in the watercraft, the Department shall provide the applicant with the release and the applicant may then register the watercraft under R12-4-502.
    - b. If the registered owner provides written notice to the Department refusing to release an interest in the watercraft, the Department shall advise the applicant of the refusal, and the Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with R12-4-502.
    - c. If service is successful and the registered owner does not respond to the notice in writing, the Department shall advise the applicant of the failure to respond, and the Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with R12-4-502.

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2. If the Department cannot determine who the registered owner of the watercraft is, or if the written notice is returned unclaimed or refused, the Department shall advise the applicant in writing within 15 days of the notice being returned that the attempt to identify or contact the registered owner was unsuccessful.

**E.** ~~In order to register the watercraft when~~ If the Department has failed is unsuccessful in its attempt to identify or serve con-  
~~tact the registered owner under subsection (D)(2), the applicant~~ Department shall:

1. ~~Advertise twice, ensuring that the second advertisement is published at least two weeks after the first advertisement, in a newspaper of statewide general circulation. If the watercraft is traceable to another state's registration, the applicant shall also advertise in the same manner in a newspaper of statewide general circulation in the state of registration. The applicant shall ensure that the advertised notice includes a complete description of the watercraft, including any identifying numbers, the date and location where the watercraft was found, the present location of the watercraft, the means by which the applicant can be contacted, and a statement that the owner shall contact the Department or risk losing ownership of the watercraft. The applicant shall also ensure that the notice includes the following warning: the Department shall register the watercraft to the applicant if no other person provides proof of ownership.~~
2. ~~Thirty calendar days after the second newspaper advertisement, the applicant shall submit to the Department an affidavit of publication under this Section and shall follow the application procedures prescribed in R12-4-502, unless the Department or the applicant receives notice from the registered owner refusing to release interest in the watercraft.~~

publish a notice of intent of the Director of the Department to transfer ownership of the abandoned or unreleased watercraft in a newspaper or other publication of general circulation in this state within forty-five days of the Department's notification to the applicant as provided in subsection (D)(2). The published notice shall include a statement of the intent of the Director to transfer ownership of the watercraft as provided by R12-4-502 ten days after the notice is published, unless the Department receives notice from the registered owner refusing to release interest in the watercraft. The Department shall make available to the public upon request a description of the abandoned or unreleased watercraft subject to transfer of ownership.

**R12-4-509. Watercraft Agents**

- A.** The Department ~~may~~ has the authority to authorize an agent to act for the Department for the purpose of issuing temporary certificates of number valid for 30 days for new watercraft only; ~~when all of the following criteria are met if:~~
1. The applicant's previous authority to act as a watercraft agent ~~pursuant to under~~ A.R.S. § 5-321(E) has not been cancelled by the Department within the preceding 24 months; ~~and;~~
  2. The applicant is a business located and operating within ~~Arizona which~~ this state that sells watercraft for an identified manufacturer.
- B.** ~~Application~~ An applicant for authorization as a watercraft agent authorization shall be made apply on forms provided by the Department. The Department shall issue authorization or deny the ~~license~~ application within 30 calendar days of receiving the application. The applicant shall provide the following information on the application:
1. ~~Principal~~ The principal business or corporation name, address, and ~~phone~~ telephone number;
  2. If not a corporation, the full name, address, and ~~phone~~ telephone number of all owners or partners;
  3. ~~Name;~~ The name, address, and ~~phone~~ telephone number of the owner or manager ~~to be that is~~ responsible for compliance with this ~~rule~~ Section;
  4. Whether or not the applicant has previously issued temporary certificates of number ~~pursuant to under~~ A.R.S. § 5-321(E);
  5. The storefront name, street address, type of business, name of the manager, ~~phone~~ telephone number, and business hours of the location from which new watercraft are to be sold and temporary certificates of number issued;
  6. The manufacturers ~~for which of the~~ watercraft are to be distributed; ~~and~~
  7. ~~Signature~~ The signature of the person named ~~pursuant to under~~ subsection (B)(3).
- C.** Authorization to act as a watercraft agent is specific to the business location designated on the application and approved by the Department. The only exception ~~shall be when~~ is if the agent is participating in a scheduled, advertised boat show for the purpose of selling watercraft.
- D.** The Department shall assign an agent number to a watercraft agent ~~with an agent number~~ upon approval of the application, and shall supply the agent with the forms necessary and a schedule of fees to be collected for the compliance with ~~this rule and with the schedule of fees to be collected in accordance with A.R.S. Title 5, Chapter 3 § 5-321.~~ Prenumbered
- E.** A watercraft agent shall not destroy prenumbered temporary certificate of number applications provided by the Department shall not be destroyed but shall be marked mark an application "void" when if necessary and returned return the application to the Department with the monthly report required in subsection (I).
- F.** An agent shall verify that watercraft agent supplies were received within seven days of receipt. The Department shall provide new supplies within 30 calendar days of after receipt of the an agent's request form made by an agent on forms provided for this purpose.



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- G.** A watercraft agent ~~may~~ shall comply with the following if the agent is ~~issue~~ issuing a temporary certificate of number to the purchaser of a new watercraft, ~~providing that:~~
1. The watercraft ~~has been~~ agent shall obtain an application if the watercraft is purchased from the agent, or the applicant provides applicant's a bill of sale showing that the watercraft is new as distinguished from used and: shows the following:
    - a. ~~The~~ The watercraft is new as distinguished from used.
    - ~~a.b.~~ The name names and address addresses of the buyer and seller;
    - ~~b.c.~~ Date The date of purchase;
    - ~~e.d.~~ Amount The amount of sales tax paid. Certificate shall not be issued if sales tax has not been paid;
    - ~~d.e.~~ Purchase The purchase price;
    - ~~e.f.~~ Manufacturer's The manufacturer's name;
    - ~~f.g.~~ Length The length of craft; the watercraft.
    - ~~g.h.~~ Year The year of manufacture;
    - ~~h.i.~~ Hull The hull identification number; and
  2. The agent shall accept applications only on prenumbered application forms provided to the agent by the Department, as prescribed in R12-4-502. The agent shall identify to the applicant the state registration fee and the appropriate watercraft license tax separately from any other costs; and
  3. The agent shall collect from each watercraft applicant the state's watercraft registration fee and the appropriate watercraft license tax required. The state registration fee shall be identified to the applicant separately from any other costs.
  - 4.3. The agent shall, within 72 hours after issuing a temporary certificate of number, deliver or deposit in the U.S. mail to the Department's Phoenix office or deposit in the U.S. mail the legible original application, a legible original or copy of the bill of sale, and a check or money order for the state's fees. ~~Collected.~~
- H.** The Department shall accept applications only on prenumbered temporary certificate of number application forms provided to the agent by the Department, as prescribed in R12-4-502.
- F.I.** By the tenth day of each month, a watercraft agent shall submit a report of activity for the previous month to the Department on a form provided by the Department. The watercraft agent shall submit the report shall be submitted whether or not any temporary certificates of number were are issued during the reporting period. The report shall include the following:
1. ~~Name~~ The name and address of the watercraft agent, and the agent number assigned by the Department;
  2. For each temporary certificate of number issued, the application number, the name of the purchaser, the hull identification number, and the date of issuance; and
  3. A list of any voided or missing application numbers, with explanation.
- G.J.** The Department may cancel authorization to be a watercraft agent and demand return of or collect all supplies issued to the agent for any based on consideration of the following reasons:
1. Failure to comply with this rule. Section;
  2. Issuance of Issuing more than one check with insufficient funds to the Department within a calendar year;
  3. Predating, postdating, alteration altering, or providing or knowingly allowing false information to be provided on or with an application for a temporary numbering certificate: of number;
  4. Knowingly issuing a temporary certificate of number for a used boat. watercraft; or
  5. Falsification of Falsifying the application for authorization as a watercraft agent, or falsifying the monthly report required by subsection (F).
- H.K.** Denial of an application to become a watercraft agent, or cancellation of watercraft agent status by the Department, may be appealed to the Commission pursuant to R12-4-608: as prescribed in A.R.S. Title 41, Chapter 6, Article 10, Uniform Administrative Appeals Procedures.

**R12-4-527.      ~~Reserved~~ Transfer of Ownership of a Towed Watercraft**

- A.** For the purpose of this Section, "towed watercraft" means a watercraft that has been impounded by and is in the possession of a towing company located in this state.
- B.** At the time a towing company requests watercraft registration information under A.R.S. § 5-324 for a towed watercraft, the towing company shall present the towed watercraft to the closest Department regional office for identification if there is no discernible hull identification number nor a state-issued registration number.
- C.** A towing company that wants to transfer the ownership of a towed watercraft shall submit the following to the Director of the Department:
1. Evidence of compliance with notification requirements in A.R.S. § 5-397;
  2. A report on a form available from the Department that includes the following:
    - a. Name of towing company;
    - b. Towing company's business address;
    - c. Towing company's business telephone number;
    - d. Towing company's Arizona Department of Public Safety tow truck permit number;

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- e. Towed watercraft's hull identification number, if known;
  - f. Towed watercraft's state issued registration number, registration decal, and year of expiration, if known;
  - g. Towed watercraft's trailer license number, if available;
  - h. State and year of trailer registration, if available;
  - i. Towed watercraft's color and manufacturer, if known;
  - j. Towed watercraft's condition, whether intact, stripped, damaged, or burned, along with a description of any damage;
  - k. Date the watercraft was towed;
  - l. Location from which the towed watercraft was removed;
  - m. Entity that ordered the removal of the towed watercraft, and if a law enforcement agency, include officer badge number, jurisdiction, and copy of report or towing invoice;
  - n. Location where the towed watercraft is stored; and
  - o. Name and signature of towing company's authorized representative; and
3. Twenty-five dollar application fee under A.R.S. § 5-397.03(2).
- D.** If the Department is unsuccessful in its attempt to identify or contact the registered owner or lienholder of the towed watercraft under A.R.S. § 5-397.01, and if the Department has determined that the towed watercraft is not stolen under A.R.S. § 5-397.02(A), the towing company shall follow the application procedures in A.R.S. § 5-397.02(B) and R12-4-502 to register the towed watercraft.